

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERIC TOBIAS WOODS,

Petitioner,

v.

CASE NO. 06-CV-13741  
HONORABLE GEORGE CARAM STEEH

JEFFREY WOODS, Warden,

Respondent.

/

ORDER DENYING PETITIONER'S MOTION TO PROCEED  
WITHOUT PREPAYING FEES OR COSTS ON APPEAL (DOC. #46)

On March 30, 2015, the court denied petitioner's motion for relief from judgment under Fed. R. Civ. P. 60(b)(4). Petitioner did not seek to proceed without prepaying fees or costs. Subsequently, petitioner appealed the court's denial of his Rule 60(b) motion. Now before the court is petitioner's letter inquiry about his pauper status, which the court construes as a motion to proceed *in forma pauperis* on appeal. (Doc. #29).

Under 28 U.S.C. § 1915(a)(3), an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith. The good faith standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). An appeal is not taken in good faith if the issue presented is frivolous. *Id.* The same considerations that led the court to deny plaintiff's motion for relief from judgment also support the conclusion that an appeal would be frivolous. It is therefore CERTIFIED, under 28 U.S.C. § 1915(a)(3), that any appeal by plaintiff is not taken in good faith. As such, he may not proceed *in forma pauperis* on appeal. His motion is therefore DENIED.

Because petitioner has already filed a notice of appeal, the Court of Appeals for the Sixth Circuit has held that a certification that an appeal is not taken in good faith does not affect an indigent prisoner plaintiff's ability to take advantage of the installment procedures contained in § 1915(b). See *McGore v. Wrigglesworth*, 114 F.3d 601, 610–11 (6th Cir. 1997). Therefore, petitioner is instructed that if he wishes to take advantage of the installment procedures for paying the appellate filing fee, he must comply with the procedures set out in *McGore* and § 1915(b).

IT IS SO ORDERED.

Dated: May 28, 2015

s/George Caram Steeh

GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record and on Eric Woods, 342158, Chippewa Correctional Facility, 4269 West M-80, Kincheloe, MI 49784 on May 28, 2015, by electronic and/or ordinary mail.

s/Marcia Beauchemin  
Deputy Clerk